

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7028 of 2001

Dated:29.12.2006

Between

N.Ganapathi Rao

.....Petitioner

and

1. Government of Andhra Pradesh,
rep., by its Secretary, Social Welfare
Department, Secretariat, Hyderabad
And others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7028 of 2001

ORDER:

This writ petition is filed seeking a Mandamus to declare the order passed by the District Collector *vide* his proceedings dated 29.11.1999 cancelling the caste certificate issued to the petitioner as confirmed by the appellate authority vide G.O.Ms.No.103, Social Welfare (CV.1) Department dated 18.11.2000 as arbitrary and illegal.

According to the petitioner, he belongs to Beda Jangam Community, whose traditional occupation is to perform funeral rites of the deceased Harijans and other sudras in the village and to officiate as priests at death ceremonies. Beda Jangam caste was notified as one of the scheduled castes in the notification issued by the Central Government with effect from 16.12.1977. The occupation of the forefathers of the petitioner was also to beg alms in houses of Harijans. They are called as

“Vibhudidaries”. It is stated that there are three sub-castes in Jangam Community, they are (1) Beda (Budge) Jangam (2) Mala Jangam (3) Jangam. Previously there were no special concessions in Educational Institutions and appointments in Andhra Region recognizing the sub castes in Jangam Community. Therefore, all the persons belonging to any of the sub castes are being issued Jangam B.C. Certificates without mentioning any sub caste. The Jangam or Jangalu caste people were also not particular for mentioning their sub castes. According to their traditional occupation, habits and hereditary customs, petitioner is identified as ‘Beda Jangam’. Still they are attending the funeral rites of the deceased harijans, Girijans and other sudras in the village by ringing a bell and blowing the Shanku and attending to the appraisal of the Harijans and Girijans at their houses during the festivals etc from the times immemorial.

It is further stated that after passing English and Telugu shorthand and Typewriting Higher

Grades and after becoming graduate, he applied for Beda Jangam caste certificate in the year 1984 in accordance with the Memo issued by the Director, Social Welfare Department, Govt of AP., Hyderabad in L.Dis.No.7486/82/E1, dated 16.4.1982 to the District Collector and to the competent authority. The Tahsildar, Palakonda after making through enquiries issued caste certificate to him on 4.8.1984 as 'Beda Jangam'.

It is also stated that the LIC of India, Visakhapatnam Division has notified certain vacancies of Stenographer (English) posts in its division. The petitioner applied for the said post and he was successful in the examination and interview held by LIC and after selection he was asked to produce caste certificate afresh on the proforma given by the LIC of India. Accordingly, he approached the Tahasildar, Palakonda and requested him to issue the caste certificate. The Tahasildar, Palakonda issued the fresh certificate on 31-1-1985 on the proforma issued by the LIC, on the strength of the caste certificate earlier issued to

him on 4.8.1984. While the matter stood thus, the LIC of India has sought for information from revenue authorities as to whether the petitioner belongs to Beda Jangam Caste or not. Thereupon, the District Collector, Srikakulam addressed a letter dated 8.9.1996 to the Mandal Revenue Officer, Burja to conduct enquiry and submit the report about the caste of the petitioner. The Mandal Revenue Officer, Burja conducted enquiry on 20.4.1987 and submitted his report stating that the petitioner belongs to Beda Jangam caste, thereby, he belongs to the Scheduled Caste. However, again a notice was issued directing the petitioner to be present in the office on 25.1.1989. Accordingly, the petitioner's brother and mother attended the office, but no questions were asked by the Mandal Revenue Officer and they have waited till evening and later returned to their home. The Mandal Revenue Officer again issued a notice on 18.2.1989 asking him to produce the educational qualifications and information about the relatives. Thereafter, the petitioner sent in writing to the

Mandal Revenue officer about the history and particulars of Beda Jangam with registered post acknowledgement due on 23.2.1989. It appears that the Revenue Divisional Officer, Srikakulam held an enquiry behind the petitioner and submitted his report dated 14.7.1989 to the Collector. It also further appears that the Mandal Revenue Officer, Burja also prepared a report dated 13.6.1989 which is against the petitioner. No witnesses were examined in the presence of the petitioner either by the Revenue Divisional Officer, Srikakulam or the Mandal Revenue Officer, Burja and no statement from any one recorded in the presence of the petitioner. However, on the basis of Revenue Divisional Officer's report dated 14.7.1987 and the report of Mandal Revenue Officer dated 13.6.1989, a show cause notice was issued to the petitioner on 30.7.1989. The petitioner submitted his explanation on 28.8.1989 and produced witnesses before the Collector for enquiry. No witnesses were examined by the Collector on 28.8.1989. The petitioner submitted an elaborate explanation

denying the allegations made in the show cause notice issued to him. Thereafter, the Collector issued notice to the petitioner on 16.6.1992 directing the petitioner to appear before him on 29.6.1992 at 11-00 A.M. Accordingly, the petitioner attended and submitted the reports of the Revenue Divisional Officer and the Mandal Revenue Officer. The Revenue Divisional Officer vide his letter dated 6.4.1993 asked the petitioner to appear before him on 20.4.1993 in the office of Mandal Revenue Officer, Burja. The petitioner appeared before the Revenue Divisional Officer along with the witnesses on that day. Ultimately, the District Collector cancelled the caste certificate dated 31.1.1985 issued to the petitioner by an order dated 30.9.1994. Aggrieved by the same, the petitioner filed a writ petition No.20375 of 1994 and the same was allowed by directing the Collector to give notice to the petitioner and hold the enquiry in accordance with Law. Thereafter, a notice was issued to the petitioner before the Scrutiny Committee on 20.5.1999. The petitioner appeared before the

Scrutiny Committee and furnished all the information and documents as directed by them. Further, the Collector seems to have made some discreet enquiries and called for a report from the Revenue Divisional Officer. The copy of the said report was not furnished to the petitioner. Accordingly, the Deputy Director of Social Welfare and the Deputy Superintendent of Police also conducted some enquiries behind the back of the petitioner. Therefore, the impugned order passed by the District Collector as confirmed by the appellate authority is arbitrary and illegal and liable to be set aside.

A detailed counter-affidavit has been filed by the official respondents. But, nothing has been specifically stated as to whether any enquiry was conducted in the presence of the petitioner and whether he was given an opportunity of cross-examining the witnesses, if any, examined during the course of enquiry. In the entire counter, it is simply stated that discreet enquiries were conducted. Further, it is stated that the District

Level Scrutiny Committee, Srikakulam has conducted elaborate and discreet enquiry by giving an opportunity in accordance with Rule 8 (d) 1 to 7 of A.P.SC/ST/BC issue of Community, Nativity, Date of Birth Certificate Rules, 1997 and finally opined that there are no valid grounds to declare that the petitioner belongs to Beda Jangam (SC) caste since he belongs to Jangam (BC) caste by birth and recommended for cancellation of SC Beda Jangam Caste certificate which was fraudulently obtained by the petitioner. Except this, there is no reply for the allegations asserted by the petitioner with regard to conducting of enquiry behind the back of the petitioner and no opportunity was given to him either to cross examine any witnesses during the course of examination by the officers or before the District Level Committee.

In view of the above, I am of the opinion that the enquiry conducted by the District Level Scrutiny Committee, Srikakulam as confirmed by the Government of A.P. vide impugned G.O is in gross violation of principles of natural justice. Therefore,

the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the District Level Scrutiny Committee for conducting a fresh enquiry as per A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 & Rules, 1997, and the parties shall be permitted to adduce evidence both oral and documentary and the petitioner shall also be permitted to cross examine the witnesses on other side. No costs.

29-12-2006

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